

Amendment No. 1 to SB0006

Ramsey
Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 6*

House Bill No. 110

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 69, Chapter 12, Part 1, is amended by adding the following appropriately designated new section:

Section 69-12-127.

(a) If a structure or facility is planned to be built or altered in or near the flood plain of a stream downstream of a dam that might cause the hazard category of a dam to rise to a high category, i.e., from Category 3 or 2 to a Category 2 or 1 as defined by the regulations, the owner of the structure or facility or the land where it is to be located shall give written notice of the proposal to the commissioner, the governing authority of the local unit of government, and the dam owner. The owner of the proposed downstream structure shall not commence construction until at least sixty (60) days after the commissioner receives this notification. Additionally, the owner of the structure or facility downstream of the dam shall, at the same time, submit to the commissioner a report from an engineer, licensed by the state of Tennessee, determining the areas that would be affected by a failure of the dam and whether the proposed structure or facility would be affected by the failure. The commissioner shall determine whether the proposed construction will change the hazard category of the dam and shall notify the owner of the dam, the owner of the downstream structure or facility, and the local unit of government of the commissioner's determination.

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(b) If the commissioner determines that the proposed construction downstream will result in the hazard category of the dam changing in such a manner that improvements must be made to the dam, or if any construction occurs on a structure downstream of a dam after the effective date of this act and the commissioner later determines that the construction had this effect, then the owners of such structures or facilities at the time they were built or altered shall be liable for the costs of such improvements. The owner of the dam may, after making claim in writing upon all such owners and receiving no satisfactory response in sixty (60) days, institute an action in the chancery court of the county in which the dam is located. If the owner of a dam prevails in the action, the court shall order that the owner of the downstream structure pay the court costs and attorney's fees of the owner of the dam in addition to other relief sought. A court or administrative judge shall join as necessary parties the owner of such downstream structures at the time of construction in any action relating to the dam brought against the dam owner by the commissioner or by any other person.

SECTION 2. This act shall take effect July 1, 2001, the public welfare requiring it.